

Crotty, J

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Minneapolis, Minnesota 55402-1498

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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REGENTS OF THE UNIVERSITY OF MINNESOTA	:
and NCS PEARSON, INC.,	:
	:
Plaintiffs,	:
	:
v.	:
	:
ANDREW DOBSON, KAZAN CORP. and	:
KAZSERV INC.,	:
	:
Defendants.	:
-----X	

**FINAL JUDGMENT AND INJUNCTION ON CONSENT**

Whereas defendant Andrew Dobson ("Dobson") and plaintiffs in the above-entitled action have agreed upon a basis for settlement of the matters averred in the Complaint, without hearing, trial or adjudication of the issues herein, and have stipulated that a Final Judgment and Injunction on Consent ("Consent Judgment") in the form herein set forth be entered, it is hereby

ORDERED, ADJUDGED AND DECREED:

1. This Court has jurisdiction over the parties and over the claim of copyright infringement that is the subject matter of this action under the United States Copyright Act, 17 U.S.C. § 101, et seq., and under the Judicial Code, 28 U.S.C. §§ 1331 and 1338(a).

2. Plaintiff Regents of the University of Minnesota ("Regents") is the owner of copyrights in the Minnesota Multiphasic Personality Inventory ("MMPI") test and various versions thereof, including the MMPI-2 test, MMPI-2 test statements, scale definitions, and other works of authorship for scoring the MMPI-2 test. These works are the subject of the following registrations in the United States Copyright Office:

Title	Reg. No. / Renewal No. (if applicable)
A Multiphasic Personality Schedule (Minnesota): II. A differential Study of Hypochondriasis, Journal of Psychology, Vol. 10, October 28, 1940	B 479185 / R 438857
The Minnesota Multiphasic Personality Schedule/Manual	AA 402456 / R 478857
Manual for the Minnesota Multiphasic Personality Inventory	AA 418866 / R 480414
Supplementary Manual for the Minnesota Multiphasic Inventory	AA 42823 / R 571995
Minnesota Multiphasic Personality Inventory (MMPI) profile sheet	A 954009 / R 620278
Minnesota Multiphasic Personality Inventory Manual	A 57392 / RE 35-270
Minnesota Multiphasic Personality Inventory Manual	A 942883
Minnesota Multiphasic Personality Inventory-2 (MMPI-2) Softcover Test Booklet	TX 2-683-472
Minnesota Multiphasic Personality Inventory-2 (MMPI-2) Manual for Administration and Scoring	TX 2-683-473
The MMPI-2 Manual, Revised Edition	TX 5-383-189

These registrations, or the renewals thereof, are presently outstanding and validly subsisting and Regents is the owner thereof. Plaintiff NCS Pearson, Inc. ("Pearson") is the exclusive licensee of plaintiff Regents and has the exclusive right to distribute the MMPI-2 test commercially in the United States.

3. Dobson, his agents, servants, employees, representatives and attorneys, and all persons in active concert or participation with any of them, are hereby enjoined and restrained from reproducing, distributing, publishing or displaying, or otherwise infringing, in whole or in part in any medium, any version of the MMPI test, including without limitation the MMPI-2 test statements, scale definitions (included items and scored directions) or other works of authorship for scoring the MMPI-2 test, or any derivative work based on or derived from any version of the MMPI test or any administration or scoring facility for any version of the MMPI test.

4. Dobson, his agents, servants, employees, representatives and attorneys, and all persons in active concert or participation with any of them, are hereby enjoined and restrained from using in connection with the advertising, offering, sale, distribution or publication of tests, test administration, test scoring services or information relating thereto, the trademarks MINNESOTA MULTIPHASIC PERSONALITY INVENTORY or MMPI, either alone or in combination with any other word, name, letter, number or design, in any manner that is likely to cause confusion or mistake or to deceive persons into the erroneous belief that Dobson or his agents or representatives, or their products or services, are plaintiffs' or are authorized by plaintiffs or are endorsed by plaintiffs or are sponsored by plaintiffs or are connected in some way with plaintiffs or the MMPI-2 test.

5. Within 48 hours of plaintiffs' attorneys providing Dobson with e-mail notification of the execution of this Consent Judgment by all parties hereto, Dobson shall cause all copies of the MMPI-2 test statements, any software used for administering and/or scoring an individual's responses to the MMPI-2 test statements ("Scoring Software") and all other MMPI-2 scoring facilities, and all links or references to any third party websites containing any such materials, to be removed from all websites owned, controlled or operated by him, whether directly or indirectly, and from all websites to which he contributes content or on which he collaborates in any way with any other person or entity. "Websites" shall include any data collection accessible or viewable via the internet.

6. Immediately upon the removal of the materials identified in paragraph 5 above, Dobson shall delete or otherwise destroy all electronic files and printed materials in his possession, custody or control that contain any MMPI-2 test statements, Scoring Software or other MMPI-2 scoring program facilities. Within thirty (30) days of the deletion or destruction of such materials, Dobson shall file with this Court and serve upon plaintiffs' counsel a sworn statement certifying to his compliance with the requirements of this paragraph 6.

7. An act shall not be considered a violation of paragraphs 3-5 above, if (a) the use or possession of MMPI test material protected by copyright is a fair use under 17 U.S.C. Section 107; or if (b) the use of MINNESOTA MULTIPHASIC PERSONALITY INVENTORY or MMPI marks is permitted as descriptive or otherwise permissible under applicable trademark law. Dobson acknowledges that the MMPI Scoring Software posted as described above is not a fair use and agrees to destroy all copies of it pursuant to paragraph 6 above.

8. This Consent Judgment shall be binding upon Dobson and the plaintiffs and their respective heirs, successors and assigns.

9. This Court shall retain jurisdiction over this action and the parties to enforce this Consent Judgment. In all other respects, this action is hereby dismissed without prejudice.

Dated: April ~~18~~, 2012

~~Paul A. Crotty~~  
~~United States District Judge~~

Entry of the foregoing Final Judgment and Injunction on Consent is hereby consented to:

REGENTS OF THE UNIVERSITY OF  
MINNESOTA

Dated: April 23, 2012

By R. H. Pfutzenreuter  
Name: R. H. Pfutzenreuter  
Title: CFO

NCS PEARSON, INC.

Dated: April \_\_, 2012

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DORSEY & WHITNEY LLP

Dated: April 27, 2012

By Susan Progo  
Susan Progo  
Jonathan Montcalm

51 West 52<sup>nd</sup> Street  
New York, New York 10019  
Tel.: (212) 415-9200  
E-mail: [progo@susan@dorsey.com](mailto:progo@susan@dorsey.com)

Attorneys for Plaintiffs,  
Regents of the University of Minnesota and  
NCS Pearson, Inc.

9. This Court shall retain jurisdiction over this action and the parties to enforce this Consent Judgment. In all other respects, this action is hereby dismissed without prejudice.

Dated: April \_\_, 2012

\_\_\_\_\_  
Paul A. Crotty  
United States District Judge

Entry of the foregoing Final Judgment and Injunction on Consent is hereby  
consented to:

REGENTS OF THE UNIVERSITY OF  
MINNESOTA

Dated: April \_\_, 2012

By \_\_\_\_\_  
Name:  
Title:

NCS PEARSON, INC.

Dated: April 24, 2012

By \_\_\_\_\_  
Name: *Carey A. Peterson*  
Title: *V.P.*

DORSEY & WHITNEY LLP

Dated: April \_\_, 2012

By \_\_\_\_\_  
Susan Progoff  
Jonathan Montcalm

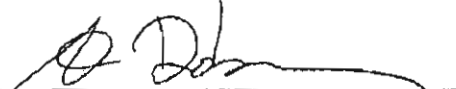
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New York, New York 10019  
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E-mail: [progoff.susan@dorsey.com](mailto:progoff.susan@dorsey.com)

Attorneys for Plaintiffs,  
Regents of the University of Minnesota and  
NCS Pearson, Inc.

SO ORDERED: 4-30-12

*Paul A. Crotty*  
\_\_\_\_\_  
HON. PAULA A. CROTTY  
UNITED STATES DISTRICT JUDGE

Dated: ~~February~~ <sup>March 20</sup> \_\_, 2012

  
Andrew Dobson

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